

1 The Honorable Ricardo S. Martinez
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON,
AT SEATTLE

SUZANNE MALLOUK, ALFREDO
RODRIGUEZ PEREZ, ARJUN DHAWAN,
and WILLIAM NOVOLT, on behalf of
themselves and all others similarly situated,

Plaintiffs,

vs.

AMAZON.COM, INC.,

Defendants.

Case No. 2:23-852-RSM

**DEFENDANT AMAZON.COM, INC.'S
ANSWER TO AMENDED COMPLAINT
AND AFFIRMATIVE DEFENSES**

1 Defendant Amazon.com, Inc. (“Amazon” or “Defendant”),¹ by and through its attorneys,
2 answer and assert defenses as follows to the First Amended Class Action Complaint filed by
3 Plaintiffs Suzanne Mallouk, Alfredo Rodriguez Perez, Arjun Dhawan, and William Novolt
4 (together “Plaintiffs”) (Dkt. 42).

5 The paragraph numbers below correspond to those in the First Amended Class Action
6 Complaint. Headings contained in the First Amended Class Action Complaint are not substantive
7 allegations to which an answer is required and to the extent headings are repeated in this Answer,
8 it is solely for ease of reference. To the extent the headings are substantive allegations to which an
9 answer is required, Amazon denies any such allegations. Each allegation not specifically admitted
10 below is denied.

NATURE OF THE ACTION

12 1. Paragraph 1 consists of conclusions of law to which no response is necessary or
13 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 1.

14 2. Paragraph 2 consists of conclusions of law to which no response is necessary or
15 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 2.

16 3. Paragraph 3 consists of conclusions of law to which no response is necessary or
17 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 3.

18 4. Paragraph 4 consists of conclusions of law to which no response is necessary or
19 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 4.

20 5. Paragraph 5 consists of conclusions of law to which no response is necessary or
21 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 5.

22 6. Amazon admits that an Amazon Go customer can get in and out quickly without
23 scanning any items or waiting in a checkout line. Amazon also admits that an Amazon Go customer
24 can enter an Amazon Go store through the Amazon app, a credit card, or Amazon One. Amazon
25 denies the remaining allegations of Paragraph 6.

²⁸ ¹ Starbucks Corporation was dismissed from this case. (Dkt. 66).

1 7. Amazon admits that Amazon One palm scanners are located in various stores
 2 throughout New York City, including Whole Foods Market locations and in certain third-party
 3 locations. Amazon denies the remaining allegations of Paragraph 7.

4 8. Amazon admits that Plaintiffs are citing to a public website, and the website speaks
 5 for itself.

6 9. Amazon admits that Plaintiffs are citing to a public website, and the website speaks
 7 for itself.

8 10. Amazon admits that Plaintiffs are citing to a public website, and the website speaks
 9 for itself.

10 11. Amazon admits that Plaintiffs are citing to public websites, and the websites speak
 11 for themselves. Amazon denies the remaining allegations of Paragraph 11.

12 12. Amazon lacks knowledge or information sufficient to form a belief about the
 13 allegations of Paragraph 12 directed to Starbucks (who has been dismissed from this case) and on
 14 that basis denies them. Amazon denies the remaining allegations of Paragraph 12.

15 13. Amazon lacks knowledge or information sufficient to form a belief about the
 16 allegations of Paragraph 13 directed to Starbucks (who has been dismissed from this case) and on
 17 that basis denies them. Amazon denies the remaining allegations of Paragraph 13.

18 14. Amazon lacks knowledge or information sufficient to form a belief about the
 19 allegations of Paragraph 14 directed to Starbucks (who has been dismissed from this case) and on
 20 that basis denies them. Amazon denies the remaining allegations of Paragraph 14.

21 15. Amazon admits that it has posted signs outside of Amazon Go stores in New York
 22 City informing customers that Amazon One collects biometric information. Amazon denies the
 23 remaining allegations of Paragraph 15.

24 16. Amazon lacks knowledge or information sufficient to form a belief about the
 25 allegations of Paragraph 16 and on that basis denies them.

26 17. Amazon denies the allegations of Paragraph 17.

27 18. Amazon denies the allegations of Paragraph 18.

1 19. Amazon lacks knowledge or information sufficient to form a belief about the
 2 allegations of Paragraph 19 directed to Starbucks (who has been dismissed from this case) and on
 3 that basis denies them. Amazon admits that it has posted signs outside of Amazon Go stores in
 4 New York City informing customers that Amazon One collects biometric information. Amazon
 5 denies the remaining allegations of Paragraph 19.

6 20. Paragraph 20 consists of conclusions of law to which no response is necessary or
 7 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 20.

8 21. Paragraph 21 consists of conclusions of law to which no response is necessary or
 9 appropriate. To the extent a response is required, Amazon lacks knowledge or information
 10 sufficient to form a belief about the allegations of Paragraph 21 directed to Starbucks (who has
 11 been dismissed from this case) and on that basis denies them. Amazon denies the remaining
 12 allegations of Paragraph 21.

13 22. Paragraph 22 consists of conclusions of law to which no response is necessary or
 14 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 22.

15 23. Amazon lacks knowledge or information sufficient to form a belief about the
 16 allegations of Paragraph 23 directed to Starbucks (who has been dismissed from this case) and on
 17 that basis denies them. Amazon admits that Amazon responded to a letter from Plaintiff Mallouk
 18 and that Amazon informed Plaintiff Mallouk that the Just Walk Out technology does not collect,
 19 retain, convert, or store biometric identifier information from customers at the location she had
 20 visited. Amazon denies the remaining allegations of Paragraph 23.

21 24. Amazon admits that Plaintiffs are citing to a letter sent by Plaintiff Novolt. Amazon
 22 denies the remaining allegations of Paragraph 24.

23 25. Amazon admits that Amazon responded to a letter from Plaintiff Novolt and that
 24 Amazon informed Plaintiff Novolt that the Just Walk Out technology does not collect, retain,
 25 convert, or store biometric identifier information from customers at the location they had visited.
 26 Amazon denies the remaining allegations of Paragraph 25.

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1 26. Amazon lacks knowledge or information sufficient to form a belief about the
2 allegations of Paragraph 26 directed to Starbucks (who has been dismissed from this case) and on
3 that basis denies them. Amazon denies the remaining allegations of Paragraph 26.

4 27. Paragraph 27 describes the nature of Plaintiffs' claims to relief and no response is
5 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
6 Paragraph 27.

JURISDICTION AND VENUE

8 28. Paragraph 28 consists of conclusions of law to which no response is necessary or
9 appropriate. To the extent a response is required, Amazon lacks knowledge or information
10 sufficient to form a belief about the allegations of Paragraph 28 and on that basis denies them.

11 29. Paragraph 29 consists of conclusions of law to which no response is necessary or
12 appropriate. To the extent a response is required, Amazon admits that it resides in the State of
13 Washington and denies the remaining allegations of Paragraph 29.

14 30. Paragraph 30 consists of conclusions of law to which no response is necessary or
15 appropriate. To the extent a response is required, Amazon admits that it resides in the State of
16 Washington and in the Western District of Washington. Amazon denies the remaining allegations
17 of Paragraph 30.

PARTIES

19 31. Amazon lacks knowledge or information sufficient to form a belief about the
20 allegations of Paragraph 31 and on that basis denies them.

21 32. Amazon lacks knowledge or information sufficient to form a belief about the
22 allegations of Paragraph 32 and on that basis denies them.

23 33. Amazon lacks knowledge or information sufficient to form a belief about the
24 allegations of Paragraph 33 and on that basis denies them.

25 34. Amazon lacks knowledge or information sufficient to form a belief about the
26 allegations of Paragraph 34 and on that basis denies them.

1 35. Amazon admits that it is headquartered in Seattle, Washington and incorporated in
2 Delaware. Amazon also admits that it has both online and physical stores. Amazon denies the
3 remaining allegations of Paragraph 35.

4 36. Amazon lacks knowledge or information sufficient to form a belief about the
5 allegations of Paragraph 36 and on that basis denies them.

FACTUAL BACKGROUND

7 37. Paragraph 37 consists of conclusions of law to which no response is necessary or
8 appropriate. To the extent a response is required, Amazon lacks knowledge or information
9 sufficient to form a belief about the allegations of Paragraph 37 and on that basis denies them.

38. Paragraph 38 consists of conclusions of law to which no response is necessary or appropriate. To the extent a response is required, Amazon lacks knowledge or information sufficient to form a belief about the allegations of Paragraph 38 and on that basis denies them.

13 39. Amazon admits that Plaintiffs cite a NYC Committee Report and that the report
14 speaks for itself. Paragraph 39 also consists of conclusions of law to which no response is
15 necessary or appropriate. To the extent a response is required, Amazon lacks knowledge or
16 information sufficient to form a belief about the remaining allegations of Paragraph 39 and on that
17 basis denies them.

18 40. Amazon admits that Plaintiffs cite a NYC Committee Report and that the report
19 speaks for itself. Amazon denies the remaining allegations of Paragraph 40.

20 41. Amazon lacks knowledge or information sufficient to form a belief about the
21 allegations of Paragraph 41 and on that basis denies them.

42. Amazon lacks knowledge or information sufficient to form a belief about the
allegations of Paragraph 42 and on that basis denies them.

24 43. Amazon lacks knowledge or information sufficient to form a belief about the
25 allegations of Paragraph 43 and on that basis denies them.

26 44. Amazon lacks knowledge or information sufficient to form a belief about the
27 allegations of Paragraph 44 and on that basis denies them.

1 45. Amazon lacks knowledge or information sufficient to form a belief about the
 2 allegations of Paragraph 45 and on that basis denies them.

3 46. Amazon denies the allegations of Paragraph 46.

4 47. Amazon admits that Plaintiffs cite a news article and that the news article speaks
 5 for itself. Amazon denies the remaining allegations of Paragraph 47.

6 48. Amazon admits that Plaintiffs cite a news article and that the news article speaks
 7 for itself. Amazon denies the remaining allegations of Paragraph 48.

8 49. Amazon admits that Plaintiffs cite a news article and that the news article speaks
 9 for itself. Amazon denies the remaining allegations of Paragraph 49.

10 50. Amazon admits that Plaintiffs cite news articles and that the news articles speak for
 11 themselves. Amazon denies the remaining allegations of Paragraph 50.

12 51. Amazon admits that Plaintiffs cite a news article and that the news article speaks
 13 for itself. Amazon denies the remaining allegations of Paragraph 51.

14 52. Amazon lacks knowledge or information sufficient to form a belief about the
 15 allegations of Paragraph 52 and on that basis denies them.

16 53. Amazon admits that Plaintiffs cite a NYC Committee Report and that the report
 17 speaks for itself. Amazon lacks knowledge or information sufficient to form a belief about the
 18 remaining allegations of Paragraph 53 and on that basis denies them.

19 54. Amazon admits that Plaintiffs cite a NYC Committee Report and that the report
 20 speaks for itself. Amazon lacks knowledge or information sufficient to form a belief about the
 21 remaining allegations of Paragraph 54 and on that basis denies them.

22 55. Amazon admits that Plaintiffs are citing to public websites and that the websites
 23 speak for themselves. To the extent a further response is required, Amazon denies the remaining
 24 allegations of Paragraph 55.

25 56. Amazon admits that Plaintiffs are citing to a public website and that the website
 26 speaks for itself. To the extent a further response is required, Amazon denies the remaining
 27 allegations of Paragraph 56.

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1 57. Amazon admits that Plaintiffs are citing to public websites and that the websites
 2 speak for themselves. To the extent a further response is required, Amazon denies the remaining
 3 allegations of Paragraph 57.

4 58. Amazon admits that Plaintiffs are citing public documents and that the documents
 5 speak for themselves. To the extent a response is required, Amazon lacks knowledge or
 6 information sufficient to form a belief about the allegations of Paragraph 58 and on that basis
 7 denies them.

8 59. Amazon admits that Plaintiffs are citing public documents and that the documents
 9 speak for themselves. To the extent a response is required, Amazon lacks knowledge or
 10 information sufficient to form a belief about the allegations of Paragraph 59 and on that basis
 11 denies them.

12 60. Amazon admits that Plaintiffs are citing public documents and that the documents
 13 speak for themselves. To the extent a response is required, Amazon lacks knowledge or
 14 information sufficient to form a belief about the allegations of Paragraph 60 and on that basis
 15 denies them.

16 61. Amazon admits that the Biometric Identifier Information Law was enacted in 2021.
 17 Amazon lacks knowledge or information sufficient to form a belief about the remaining allegations
 18 of Paragraph 61 and on that basis denies them.

19 62. Paragraph 62 consists of conclusions of law to which no response is necessary or
 20 appropriate. To the extent a response is required, Amazon admits that Plaintiffs are citing to the
 21 Biometric Identifier Information Law, and denies any remaining allegations of Paragraph 62.

22 63. Paragraph 63 consists of conclusions of law to which no response is necessary or
 23 appropriate. To the extent a response is required, Amazon admits that Plaintiffs are citing to the
 24 Biometric Identifier Information Law, and denies any remaining allegations of Paragraph 63.

25 64. Amazon denies the allegations of Paragraph 64.

26 65. Paragraph 65 consists of conclusions of law to which no response is necessary or
 27 appropriate. To the extent a response is required, Amazon admits that Plaintiffs are citing to the
 28 Biometric Identifier Information Law, and denies the remaining allegations of Paragraph 65.

1 66. Paragraph 66 consists of conclusions of law to which no response is necessary or
 2 appropriate. To the extent a response is required, Amazon admits that Plaintiffs are citing to a rule
 3 from the Department of Consumer and Worker Prevention, and denies the remaining allegations
 4 of Paragraph 66.

5 67. Amazon admits that Plaintiffs are citing to a public website and that the website
 6 speaks for itself. To the extent a further response is required, Amazon denies the remaining
 7 allegations of Paragraph 67.

8 68. Amazon admits that an Amazon Go customer can get in and out quickly without
 9 scanning any items or waiting in a checkout line, including with food, drink, and other items.
 10 Amazon denies the remaining allegations of Paragraph 68.

11 69. Amazon admits that it opened an Amazon Go store in New York City in 2019.
 12 Amazon denies the remaining allegations of Paragraph 69.

13 70. Amazon admits that Plaintiffs are citing to a public website and that the website
 14 speaks for itself. To the extent a further response is required, Amazon denies the remaining
 15 allegations of Paragraph 70.

16 71. Amazon denies the allegations of Paragraph 71.

17 72. Amazon denies the allegations of Paragraph 72.

18 73. Amazon denies the allegations of Paragraph 73.

19 74. Amazon admits that Plaintiffs are citing to a public website and that the website
 20 speaks for itself. Amazon denies the remaining allegations of Paragraph 74.

21 75. Amazon admits that Plaintiffs are citing to a public website and that the website
 22 speaks for itself. Amazon denies the remaining allegations of Paragraph 75.

23 76. Amazon lacks knowledge or information sufficient to form a belief about the
 24 allegations of Paragraph 76 and on that basis denies them.

25 77. Amazon admits that Plaintiffs are citing to a public website and that the website
 26 speaks for itself. Amazon denies the remaining allegations of Paragraph 77.

27 78. Amazon admits that Plaintiffs are citing to a public website and that the website
 28 speaks for itself. Amazon denies the remaining allegations of Paragraph 78.

1 79. Amazon denies the allegations of Paragraph 79.

2 80. Amazon admits that Plaintiffs are citing to a public website and that the website
3 speaks for itself. Amazon denies the remaining allegations of Paragraph 80.

4 81. Amazon admits that Plaintiffs are citing to a public website and that the website
5 speaks for itself. Amazon denies the remaining allegations of Paragraph 81.

6 82. Amazon admits that Amazon Go stores are equipped with the Just Walk Out
7 technology, along with the stores of certain third-party retailers. Amazon denies the remaining
8 allegations of Paragraph 82.

9 83. Amazon does not deny that this quotation is from a patent application, but denies
10 the relevance or implication implied herein. Amazon denies the remaining allegations of Paragraph
11 83.

12 84. Amazon does not deny that this quotation is from a patent, but denies the relevance
13 or implication implied herein. Amazon denies the remaining allegations of Paragraph 84.

14 85. Amazon does not deny that this quotation is from a patent, but denies the relevance
15 or implication implied herein. Amazon denies the remaining allegations of Paragraph 85.

16 86. Amazon does not deny that this quotation is from a patent, but denies the relevance
17 or implication implied herein. Amazon denies the remaining allegations of Paragraph 86.

18 87. Amazon does not deny that this quotation is from a patent, but denies the relevance
19 or implication implied herein. Amazon denies the remaining allegations of Paragraph 87.

20 88. Amazon denies the allegations of Paragraph 88.

21 89. Amazon denies the allegations of Paragraph 89.

22 90. Amazon denies the allegations of Paragraph 90.

23 91. Amazon denies the allegations of Paragraph 91.

24 92. Paragraph 92 consists of conclusions of law to which no response is necessary or
25 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 92.

26 93. Amazon lacks knowledge or information sufficient to form a belief about the
27 allegations of Paragraph 93 directed to Starbucks (who has been dismissed from this case) and on
28 that basis denies them.

1 94. Amazon lacks knowledge or information sufficient to form a belief about the
 2 allegations of Paragraph 94 directed to Starbucks (who has been dismissed from this case) and on
 3 that basis denies them.

4 95. Amazon lacks knowledge or information sufficient to form a belief about the
 5 allegations of Paragraph 95 directed to Starbucks (who has been dismissed from this case) and on
 6 that basis denies them.

7 96. Starbucks is dismissed from this case, so no response is appropriate. To the extent
 8 a response is required, Amazon admits that no Amazon employees were employed to work in the
 9 operation of the Starbucks stores and lacks knowledge or information sufficient to form a belief
 10 about the remaining allegations of Paragraph 96 and on that basis denies them.

11 97. Starbucks is dismissed from this case, so no response is appropriate. To the extent
 12 a response is required, Amazon lacks knowledge or information sufficient to form a belief about
 13 the allegations of Paragraph 97 and on that basis denies them.

14 98. Starbucks is dismissed from this case, so no response is appropriate. To the extent
 15 a response is required, Amazon lacks knowledge or information sufficient to form a belief about
 16 the allegations of Paragraph 98 and on that basis denies them.

17 99. Starbucks is dismissed from this case, so no response is appropriate. To the extent
 18 a response is required, Amazon lacks knowledge or information sufficient to form a belief about
 19 the allegations of Paragraph 99 and on that basis denies them.

20 100. Amazon denies the allegations of Paragraph 100.

21 101. Starbucks is dismissed from this case, so no response is appropriate. To the extent
 22 a response is required, Amazon lacks knowledge or information sufficient to form a belief about
 23 the allegations of Paragraph 101 and on that basis denies them.

24 102. Starbucks is dismissed from this case, so no response is appropriate. To the extent
 25 a response is required, Amazon lacks knowledge or information sufficient to form a belief about
 26 the allegations of Paragraph 102 and on that basis denies them.

27 103. Starbucks is dismissed from this case, so no response is appropriate. To the extent
 28 a response is required, Amazon denies the allegations of Paragraph 103.

1 104. Starbucks is dismissed from this case, so no response is appropriate. To the extent
 2 a response is required, Amazon denies the allegations of Paragraph 104.

3 105. Starbucks is dismissed from this case, so no response is appropriate. To the extent
 4 a response is required, Amazon denies the allegations of Paragraph 105.

5 106. Starbucks is dismissed from this case, so no response is appropriate. To the extent
 6 a response is required, Amazon denies the allegations of Paragraph 106.

7 107. Starbucks is dismissed from this case, so no response is appropriate. To the extent
 8 a response is required, Amazon denies the allegations of Paragraph 107.

9 108. Starbucks is dismissed from this case, so no response is appropriate. To the extent
 10 a response is required, Amazon denies the allegations of Paragraph 108.

11 109. Paragraph 109 consists of conclusions of law to which no response is necessary or
 12 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 109.

13 110. Paragraph 110 consists of conclusions of law to which no response is necessary or
 14 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 110.

15 111. Paragraph 111 consists of conclusions of law to which no response is necessary or
 16 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 111.

17 112. Paragraph 112 consists of conclusions of law to which no response is necessary or
 18 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 112.

19 113. Amazon lacks knowledge or information sufficient to form a belief about the
 20 allegations of Paragraph 113 and on that basis denies them.

21 114. Paragraph 114 consists of conclusions of law to which no response is necessary or
 22 appropriate. To the extent a response is required, Amazon lacks knowledge or information
 23 sufficient to form a belief about the allegations of Paragraph 114 directed to Starbucks (who has
 24 been dismissed from this case) and on that basis denies them. Amazon denies the remaining
 25 allegations of Paragraph 114.

26 115. Paragraph 115 consists of conclusions of law to which no response is necessary or
 27 appropriate. To the extent a response is required, Amazon lacks knowledge or information
 28 sufficient to form a belief about the allegations of Paragraph 115 directed to Starbucks (who has

1 been dismissed from this case) and on that basis denies them. Amazon denies the remaining
 2 allegations of Paragraph 115.

3 116. Paragraph 116 consists of conclusions of law to which no response is necessary or
 4 appropriate. To the extent a response is required, Amazon lacks knowledge or information
 5 sufficient to form a belief about the allegations of Paragraph 116 directed to Starbucks (who has
 6 been dismissed from this case) and on that basis denies them. Amazon denies the remaining
 7 allegations of Paragraph 116.

8 117. Paragraph 117 consists of conclusions of law to which no response is necessary or
 9 appropriate. To the extent a response is required, Amazon lacks knowledge or information
 10 sufficient to form a belief about the allegations of Paragraph 117 directed to Starbucks (who has
 11 been dismissed from this case) and on that basis denies them. Amazon denies the remaining
 12 allegations of Paragraph 117.

13 118. Amazon lacks knowledge or information sufficient to form a belief about the
 14 allegations of Paragraph 118 directed to Starbucks (who has been dismissed from this case) and
 15 on that basis denies them. Amazon denies the remaining allegations of Paragraph 118.

16 119. Amazon denies the allegations of Paragraph 119.

17 120. Paragraph 120 consists of conclusions of law to which no response is necessary or
 18 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 120.

19 121. Paragraph 121 consists of conclusions of law to which no response is necessary or
 20 appropriate. To the extent a response is required, Amazon admits that the Amazon One Terms of
 21 Use disclose to customers how their information would be used, including an acknowledgement
 22 that customers, by agreeing to the Terms of Use, “understand and consent to the collection, use,
 23 and storage of your data, including your palm signature, for the purpose of verifying your identity
 24 to access and use the Service.” Amazon denies the remaining allegations of Paragraph 121.

25 122. Amazon admits that customers are given a chance to review Amazon’s Privacy
 26 Notice before agreeing to use Amazon One. Amazon denies the remaining allegations of Paragraph
 27 122.

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PLAINTIFFS' EXPERIENCES

2 123. Amazon lacks knowledge or information sufficient to form a belief about the
3 allegations of Paragraph 123 and on that basis denies them.

4 124. Amazon admits that its store at 110 Maiden Lane is an Amazon Go store that used
5 Just Walk Out technology at the time of Plaintiffs' visits. Amazon denies the remaining allegations
6 of Paragraph 124.

7 125. Amazon lacks knowledge or information sufficient to form a belief about the
8 allegations of Paragraph 125 and on that basis denies them.

9 126. Amazon lacks knowledge or information sufficient to form a belief about the
10 allegations of Paragraph 126 and on that basis denies them.

11 || 127. Amazon denies the allegations of Paragraph 127.

12 128. Amazon lacks knowledge or information sufficient to form a belief about the
13 allegations of Paragraph 128 and on that basis denies them.

14 129. Amazon lacks knowledge or information sufficient to form a belief about the
15 allegations of Paragraph 129 and on that basis denies them.

16 130. Amazon lacks knowledge or information sufficient to form a belief about the
17 allegations of Paragraph 130 and on that basis denies them.

18 131. Amazon lacks knowledge or information sufficient to form a belief about the
19 allegations of Paragraph 131 and on that basis denies them.

20 132. Amazon lacks knowledge or information sufficient to form a belief about the
21 allegations of Paragraph 132 and on that basis denies them.

22 133. Amazon lacks knowledge or information sufficient to form a belief about the
23 allegations of Paragraph 133 and on that basis denies them.

24 134. Amazon lacks knowledge or information sufficient to form a belief about the
25 allegations of Paragraph 134 and on that basis denies them.

26 135. Amazon admits that the store at 111 E. 59th Street used Just Walk Out technology
27 at the time of the Plaintiff's visit. Amazon denies the remaining allegations of Paragraph 135.

1 136. Amazon lacks knowledge or information sufficient to form a belief about the
 2 allegations of Paragraph 136 and on that basis denies them.

3 137. Amazon lacks knowledge or information sufficient to form a belief about the
 4 allegations of Paragraph 137 and on that basis denies them.

5 138. Amazon denies the allegations of Paragraph 138.

6 139. Amazon lacks knowledge or information sufficient to form a belief about the
 7 allegations of Paragraph 139 and on that basis denies them.

8 140. Amazon lacks knowledge or information sufficient to form a belief about the
 9 allegations of Paragraph 140 and on that basis denies them.

10 141. Amazon lacks knowledge or information sufficient to form a belief about the
 11 allegations of Paragraph 141 and on that basis denies them.

12 142. Amazon lacks knowledge or information sufficient to form a belief about the
 13 allegations of Paragraph 142 directed to Starbucks (who has been dismissed from this case) and
 14 on that basis denies them. To the extent a response is required, Amazon denies the remaining
 15 allegations of Paragraph 142.

16 143. Amazon lacks knowledge or information sufficient to form a belief about the
 17 allegations of Paragraph 143 directed to Starbucks (who has been dismissed from this case) and
 18 on that basis denies them. To the extent a response is required, Amazon denies the remaining
 19 allegations of Paragraph 143.

20 144. Amazon admits that it received a letter from Plaintiff Mallouk, and that Plaintiffs
 21 quote from that letter. Amazon denies the remaining allegations of Paragraph 144.

22 145. Amazon admits that it sent a letter to Plaintiff Mallouk, and that Plaintiffs quote
 23 from that letter. Amazon denies the remaining allegations of Paragraph 145.

24 146. Amazon lacks knowledge or information sufficient to form a belief about the
 25 allegations of Paragraph 146 and on that basis denies them.

26 147. Amazon admits that the store at 620 8th Avenue used Just Walk Out technology at
 27 the time of the Plaintiff's visit. Amazon denies the remaining allegations of Paragraph 147.

1 148. Amazon lacks knowledge or information sufficient to form a belief about the
2 allegations of Paragraph 148 and on that basis denies them.

3 149. Amazon denies the allegations of Paragraph 149.

4 150. Amazon lacks knowledge or information sufficient to form a belief about the
5 allegations of Paragraph 150 and on that basis denies them.

6 151. Amazon lacks knowledge or information sufficient to form a belief about the
7 allegations of Paragraph 151 and on that basis denies them.

8 152. Amazon lacks knowledge or information sufficient to form a belief about the
9 allegations of Paragraph 152 and on that basis denies them.

10 153. Amazon lacks knowledge or information sufficient to form a belief about the
11 allegations of Paragraph 153 and on that basis denies them.

12 154. Amazon admits that its store at 110 Maiden Lane is an Amazon Go store that used
13 Just Walk Out technology at the time of Plaintiffs' visits. Amazon denies the remaining allegations
14 of Paragraph 154.

15 155. Amazon lacks knowledge or information sufficient to form a belief about the
16 allegations of Paragraph 155 and on that basis denies them.

17 156. Amazon lacks knowledge or information sufficient to form a belief about the
18 allegations of Paragraph 156 and on that basis denies them.

19 157. Amazon denies the allegations of Paragraph 157.

20 158. Amazon lacks knowledge or information sufficient to form a belief about the
21 allegations of Paragraph 158 and on that basis denies them.

22 159. Amazon lacks knowledge or information sufficient to form a belief about the
23 allegations of Paragraph 159 and on that basis denies them.

24 160. Amazon lacks knowledge or information sufficient to form a belief about the
25 allegations of Paragraph 160 and on that basis denies them.

26 161. Amazon admits that it received a letter from Plaintiff Novolt, and that Plaintiffs
27 quote from that letter. Amazon denies the remaining allegations of Paragraph 161.

1 162. Amazon admits that it sent a letter to Plaintiff Novolt, and that Plaintiffs quote from
 2 that letter. Amazon denies the remaining allegations of Paragraph 162.

3 163. Amazon lacks knowledge or information sufficient to form a belief about the
 4 allegations of Paragraph 163 directed to Starbucks (who has been dismissed from this case) or
 5 about Plaintiff Rodriguez Perez and on that basis denies them. Amazon denies the remaining
 6 allegations of Paragraph 163.

7 164. Amazon denies the allegations in Paragraph 164.

8 165. Amazon admits that it has posted signs informing customers that Amazon One
 9 collects biometric information. Amazon denies the remaining allegations of Paragraph 165.

10 166. Amazon admits that Plaintiffs have quoted from the image they included in
 11 Paragraph 165.

12 167. Amazon admits that it has posted signs informing customers that Amazon One
 13 collects biometric information. Amazon denies the remaining allegations of Paragraph 167.

14 168. Amazon lacks knowledge or information sufficient to form a belief about the
 15 allegations of Paragraph 168 directed to Starbucks (who has been dismissed from this case) and
 16 on that basis denies them.

17 169. Amazon lacks knowledge or information sufficient to form a belief about the
 18 allegations of Paragraph 169 directed to Starbucks (who has been dismissed from this case) and
 19 on that basis denies them.

20 170. Amazon lacks knowledge or information sufficient to form a belief about the
 21 allegations of Paragraph 170 directed to Starbucks (who has been dismissed from this case) and
 22 on that basis denies them.

23 171. Amazon admits that Plaintiffs have quoted from the image they included in
 24 Paragraph 170.

25 172. Paragraph 172 consists of conclusions of law to which no response is necessary or
 26 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 172.

27 173. Paragraph 173 consists of conclusions of law to which no response is necessary or
 28 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 173.

1 174. Paragraph 174 consists of conclusions of law to which no response is necessary or
 2 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 174.

3 175. Paragraph 175 consists of conclusions of law to which no response is necessary or
 4 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 175.

5 176. Paragraph 176 consists of conclusions of law to which no response is necessary or
 6 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 176.

7 177. Paragraph 177 consists of conclusions of law to which no response is necessary or
 8 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 177.

9 178. Amazon denies the allegations of Paragraph 178.

10 179. Paragraph 179 consists of conclusions of law to which no response is necessary or
 11 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 179.

12 180. Amazon lacks knowledge or information sufficient to form a belief about the
 13 allegations of Paragraph 180 directed to Starbucks (who has been dismissed from this case) and
 14 on that basis denies them. Amazon denies the remaining allegations of Paragraph 180.

15 181. Paragraph 181 consists of conclusions of law to which no response is necessary or
 16 appropriate. To the extent a response is required, Amazon lacks knowledge or information
 17 sufficient to form a belief about the allegations of Paragraph 181 directed to Starbucks (who has
 18 been dismissed from this case) and on that basis denies those allegations. Amazon denies the
 19 remaining allegations of Paragraph 181.

20 182. Amazon denies the allegations of Paragraph 182.

21 183. Amazon admits that Plaintiffs are citing to public websites, and the websites speak
 22 for themselves. Amazon denies any remaining allegations of Paragraph 183.

23 184. Amazon admits that Amazon One is used in several stores, including Amazon Go
 24 stores, along with the stores of certain third-party retailers. Amazon denies the remaining
 25 allegations of Paragraph 184.

26 185. Paragraph 185 consists of conclusions of law to which no response is necessary or
 27 appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 185.

186. Amazon lacks knowledge or information sufficient to form a belief about the allegations of Paragraph 186 directed to Starbucks (who has been dismissed from this case) and on that basis denies them. Amazon denies the remaining allegations of Paragraph 186.

187. Amazon lacks knowledge or information sufficient to form a belief about the allegations of Paragraph 187 directed to Starbucks (who has been dismissed from this case) and on that basis denies them. Amazon denies the remaining allegations of Paragraph 187.

188. Amazon lacks knowledge or information sufficient to form a belief about the allegations of Paragraph 188 directed to Starbucks (who has been dismissed from this case) and on that basis denies them. Amazon denies the remaining allegations of Paragraph 188.

10 189. Amazon lacks knowledge or information sufficient to form a belief about the
11 allegations of Paragraph 189 directed to Starbucks (who has been dismissed from this case) and
12 on that basis denies them. Amazon denies the remaining allegations of Paragraph 189.

13 190. Amazon lacks knowledge or information sufficient to form a belief about the
14 allegations of Paragraph 190 directed to Starbucks (who has been dismissed from this case) and
15 on that basis denies them. Amazon denies the remaining allegations of Paragraph 190.

16 191. Amazon lacks knowledge or information sufficient to form a belief about the
17 allegations of Paragraph 191 directed to Starbucks (who has been dismissed from this case) and
18 on that basis denies them. Amazon denies the remaining allegations of Paragraph 191.

19 192. Amazon lacks knowledge or information sufficient to form a belief about the
20 allegations of Paragraph 192 directed to Starbucks (who has been dismissed from this case) and
21 on that basis denies them. Amazon denies the remaining allegations of Paragraph 192.

193. Amazon lacks knowledge or information sufficient to form a belief about the
allegations of Paragraph 193 directed to Starbucks (who has been dismissed from this case) and
on that basis denies them. Amazon denies the remaining allegations of Paragraph 193.

CLASS ALLEGATIONS²

² Amazon notes that the Court has dismissed the purported class members' claims under Count I and Count II in their entirety. (Dkt. 66).

1 194. Paragraph 194 describes the nature of Plaintiffs' claims and no response is
 2 necessary or appropriate. To the extent a response is required, Amazon denies Paragraph 194.

3 195. Paragraph 195 describes the nature of Plaintiffs' claims and no response is
 4 necessary or appropriate. To the extent a response is required, Amazon denies Paragraph 195.

5 196. Paragraph 196 describes the nature of Plaintiffs' claims and no response is
 6 necessary or appropriate. To the extent a response is required, Amazon denies Paragraph 196.

7 197. Paragraph 197 describes the nature of Plaintiffs' claims and no response is
 8 necessary or appropriate. To the extent a response is required, Amazon denies Paragraph 197.

9 198. Paragraph 198 describes the nature of Plaintiffs' claims and no response is
 10 necessary or appropriate. To the extent a response is required, Amazon denies Paragraph 198.

11 199. Paragraph 199 describes the nature of Plaintiffs' claims and no response is
 12 necessary or appropriate. To the extent a response is required, Amazon denies Paragraph 199.

13 200. Paragraph 200 describes the nature of Plaintiffs' claims to relief and no response is
 14 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
 15 Paragraph 200.

16 201. Paragraph 201 describes the nature of Plaintiffs' claims to relief and no response is
 17 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
 18 Paragraph 201.

19 202. Paragraph 202 describes the nature of Plaintiffs' claims to relief and no response is
 20 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
 21 Paragraph 202.

22 **COUNT I**³

23 203. In response to Paragraph 203, Amazon incorporates by reference and reasserts each
 24 and every response to Paragraphs 1 through 202.

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 26
 27
 28 ³ Amazon notes that the Court has dismissed Count I in its entirety as to Plaintiff Dhawan and the
 purported class members. (Dkt. 66).

1 204. Paragraph 204 describes the nature of Plaintiffs' claims to relief and no response is
2 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
3 Paragraph 204.

4 205. Paragraph 205 describes the nature of Plaintiffs' claims to relief and no response is
5 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
6 Paragraph 205.

7 206. Paragraph 206 describes the nature of Plaintiffs' claims to relief and no response is
8 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
9 Paragraph 206.

10 207. Paragraph 207 describes the nature of Plaintiffs' claims to relief and no response is
11 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
12 Paragraph 207.

13 208. Paragraph 208 describes the nature of Plaintiffs' claims to relief and no response is
14 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
15 Paragraph 208.

16 209. Paragraph 209 describes the nature of Plaintiffs' claims to relief and no response is
17 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
18 Paragraph 209.

19 210. Paragraph 210 describes the nature of Plaintiffs' claims to relief and no response is
20 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
21 Paragraph 210.

22 211. Paragraph 211 describes the nature of Plaintiffs' claims to relief and no response is
23 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
24 Paragraph 211.

25 212. Paragraph 212 describes the nature of Plaintiffs' claims to relief and no response is
26 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
27 Paragraph 212.

1 213. Paragraph 213 describes the nature of Plaintiffs' claims to relief and no response is
2 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
3 Paragraph 213.

4 214. Paragraph 214 describes the nature of Plaintiffs' claims to relief and no response is
5 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
6 Paragraph 214.

7 215. Paragraph 215 describes the nature of Plaintiffs' claims to relief and no response is
8 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
9 Paragraph 215.

10 216. Paragraph 216 describes the nature of Plaintiffs' claims to relief and no response is
11 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
12 Paragraph 216.

13 217. Paragraph 217 describes the nature of Plaintiffs' claims to relief and no response is
14 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
15 Paragraph 217.

16 218. Paragraph 218 describes the nature of Plaintiffs' claims to relief and no response is
17 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
18 Paragraph 218.

19 219. Paragraph 219 describes the nature of Plaintiffs' claims to relief and no response is
20 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
21 Paragraph 219.

22 220. Paragraph 220 describes the nature of Plaintiffs' claims to relief and no response is
23 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
24 Paragraph 220.

25 221. Paragraph 221 describes the nature of Plaintiffs' claims to relief and no response is
26 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
27 Paragraph 221.

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222. Paragraph 222 describes the nature of Plaintiffs' claims to relief and no response is necessary or appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 222.

223. Paragraph 223 describes the nature of Plaintiffs' claims to relief and no response is necessary or appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 223.

224. Paragraph 224 describes the nature of Plaintiffs' claims to relief and no response is necessary or appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 224.

COUNT II⁴

225. In response to Paragraph 225, Amazon incorporates by reference and reasserts each and every response to Paragraphs 1 through 224.

226. Paragraph 226 describes the nature of Plaintiffs' claims to relief and no response is necessary or appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 226.

227. Paragraph 227 describes the nature of Plaintiffs' claims to relief and no response is necessary or appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 227.

228. Paragraph 228 describes the nature of Plaintiffs' claims to relief and no response is necessary or appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 228.

229. Paragraph 229 describes the nature of Plaintiffs' claims to relief and no response is necessary or appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 229.

⁴ Amazon notes that the Court has dismissed Count II in its entirety as to Plaintiff Dhawan and the purported class members. (Dkt. 66).

1 230. Paragraph 230 describes the nature of Plaintiffs' claims to relief and no response is
2 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
3 Paragraph 230.

4 231. Paragraph 231 describes the nature of Plaintiffs' claims to relief and no response is
5 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
6 Paragraph 231.

7 232. Paragraph 232 describes the nature of Plaintiffs' claims to relief and no response is
8 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
9 Paragraph 232.

10 233. Paragraph 233 describes the nature of Plaintiffs' claims to relief and no response is
11 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
12 Paragraph 233.

13 234. Paragraph 234 describes the nature of Plaintiffs' claims to relief and no response is
14 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
15 Paragraph 234.

16 235. Paragraph 235 describes the nature of Plaintiffs' claims to relief and no response is
17 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
18 Paragraph 235.

19 236. Paragraph 236 describes the nature of Plaintiffs' claims to relief and no response is
20 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
21 Paragraph 236.

22 237. Paragraph 237 describes the nature of Plaintiffs' claims to relief and no response is
23 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
24 Paragraph 237.

25 238. Paragraph 238 describes the nature of Plaintiffs' claims to relief and no response is
26 necessary or appropriate. To the extent a response is required, Amazon denies the allegations of
27 Paragraph 238.

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239. Paragraph 239 describes the nature of Plaintiffs' claims to relief and no response is necessary or appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 239.

COUNT III⁵

240. In response to Paragraph 240, Amazon incorporates by reference and reasserts each and every response to Paragraphs 1 through 239.

241. Paragraph 241 describes the nature of Plaintiffs' claims to relief and no response is necessary or appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 241.

242. Paragraph 242 describes the nature of Plaintiffs' claims to relief and no response is necessary or appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 242.

243. Paragraph 243 describes the nature of Plaintiffs' claims to relief and no response is necessary or appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 243.

244. Paragraph 244 describes the nature of Plaintiffs' claims to relief and no response is necessary or appropriate. To the extent a response is required, Amazon denies the allegations of Paragraph 244.

⁵ Amazon notes that the Court dismissed “all other Plaintiffs’ unjust enrichment claims” with the exception of Plaintiff Dhawan. (Dkt. 66).

AFFIRMATIVE DEFENSES

2 Amazon sets forth below its affirmative defenses. By setting forth these defenses, Amazon
3 does not assume any burden of proof as to any fact issue or other element of any cause of action
4 that properly belongs to Plaintiffs. Amazon reserves the right to amend or supplement its defenses.

5 245. **Laches.** Plaintiffs have unreasonably delayed in asserting their rights.

6 246. ***Waiver and acquiescence.*** Plaintiffs have waived their right to assert the claims-
7 at-issue because they acquiesced to Amazon’s practices-at-issue and failed to promptly assert their
8 rights otherwise.

9 247. **Consent.** Plaintiffs consented to Amazon's practices and thus cannot succeed on
10 their claims.

11 248. *No Aggriement.* Plaintiffs cannot show that they were “aggrieved” under NYC
12 BIIL or that any inequity resulted from their purchase of products from the Amazon Go stores.

13 249. ***Estoppel.*** Plaintiffs' claims are barred, in whole or in part, by estoppel because, for
14 example, Plaintiffs agreed and/or did not object to the complained-of practices at issue.

15 250. ***Preemption.*** The asserted unjust enrichment claim is preempted by the New York
16 Civil Rights Law.

17 251. ***Preclusion.*** The asserted unjust enrichment claim is precluded by an enforceable
18 contract covering the subject matter at issue.

19 252. ***Standing.*** Plaintiffs lack standing on all their claims because Plaintiffs consented
20 to the use of Amazon's technology including through valid contracts between each of the Plaintiffs,
21 on the one hand, and Amazon, on the other.

22 253. ***Failure to mitigate.*** Plaintiffs' claims fail in whole or in part because they have
23 failed to mitigate their alleged damages.

24 254. *Void for vagueness.* As applied to JWO Technology, the NYC BIIL is
25 unconstitutionally vague.

26 255. ***Unconstitutional as applied.*** The NYC BIIL is unconstitutional as applied to the
27 JWO Technology for lack of fair notice and inviting arbitrary enforcement.

1 256. ***Due process.*** The prayer for relief is barred in whole or in part because Plaintiffs
 2 and the putative class members are not entitled to recover statutory liquidated damages. Any such
 3 recovery would not be a reasonable estimate of actual damages, as Amazon does not benefit from
 4 the transaction of biometric data, but instead would amount to a penalty akin to punitive damages
 5 that are disallowed under state and federal law, including as a violation of Amazon's due process
 6 rights.

7 257. ***Failure to satisfy administrative requirements.*** Plaintiffs failed to satisfy the
 8 administrative requirements of NYC BIIL prior to bringing this lawsuit.

9 258. ***Failure of Required Notice.*** Plaintiffs did not properly provide notice required by
 10 the NYC BIIL.

11 259. ***Unclean hands.*** Plaintiffs are not entitled to equitable relief because they expressly
 12 consented to Amazon's alleged conduct and failed to satisfy the requirements of NYC BIIL prior
 13 to bringing suit.

14 260. ***No basis to proceed as a class.*** No Plaintiff can represent a class for the purposes
 15 of the claims at issue, including for lack of an adequate class definition, ascertainability,
 16 numerosity, commonality, typicality, adequacy, and the risk of inconsistent judgments.

17 261. ***No right to a jury.*** Plaintiffs agreed to waive their right to a jury trial.

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1 Dated: August 6, 2024

Respectfully submitted,

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